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U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

TECHDISPOSAL.COM, INC.
320 Outerbelt Street
Columbus, Ohio 43213

and

SEPEHR RAJAIE
3698 Alward Road
Pataskala, Ohio 43062

Plaintiffs,

v.

INTERNAL REVENUE SERVICE
1111 Constitution Avenue, NW
Washington, D.C. 20224

Defendant.

2:09 cv 964

Case No. _____

JUDGE SARGUS

Judge _____

MAGISTRATE JUDGE ABEL

COMPLAINT TO COMPEL PRODUCTION OF DOCUMENTS
PURSUANT TO THE FREEDOM OF INFORMATION ACT

NOW COMES Techdisposal.com, Inc. jointly with Mr. Sepehr Rajaie, pursuant to Federal Rule of Civil Procedure 20(a)(1), by and through the undersigned counsel, under the Freedom of Information Act ("FOIA"), 5 U.S.C. §552, as amended, to compel the production of tax information and records maintained by the Internal Revenue Service ("IRS"). More specifically, Techdisposal.com, Inc. and Sepehr Rajaie ("Taxpayers") request complete disclosure of: (1) the Internal Revenue Service's records relating to any communications made between a representative of Techdisposal.com., Inc. and the IRS Collection Division and IRS Revenue Officers relating to the Techdisposal.com, Inc.'s Form 941, quarterly payroll tax return

liabilities and/or Form 1120S, corporate income tax liabilities for the years 2001 through 2006, and (2) a complete copy of the Internal Revenue Service's records relating to any communications made between Mr. Rajaie or a representative of Mr. Rajaie and the IRS Collection Division and IRS Revenue Officers relating to the investigation of and any proposed and/or assessed trust fund recovery penalties for the periods and tax years beginning in 2000 through 2006.

I. JURISDICTION

1. Techdisposal.com, Inc. is an Ohio corporation with its principal place of business at 320 Outerbelt Drive, Columbus, Ohio 43213, within the Southern District of Ohio, Eastern Division.

2. Mr. Sepehr Rajaie is an individual and 100% shareholder of Techdisposal.com, Inc. and resides at 3698 Alward Road, Pataskala, Ohio 43213, within the Southern District of Ohio, Eastern Division.

3. This court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. §552(a)(4)(B).

II. PROCEDURAL HISTORY – ADMINISTRATIVE FOIA REQUESTS AND FAILURE TO DISCLOSE ALL RECORDS

4. On May 20, 2009, Techdisposal.com, Inc. requested a complete copy of the Internal Revenue Service's records relating to any communications made between a representative of Techdisposal.com, Inc. and the IRS Collection Division regarding the company's Form 941, quarterly payroll tax return liabilities and/or Form 1120S, corporate income tax liabilities for the years 2001 through 2006. More specifically, the Taxpayer requested any records noting any oral and/or written communications between a representative of

the taxpayer and the IRS Collection Division (including, but not limited to, the Collection Division located in Columbus, Ohio) from January 2001 through the May 20, 2009. A copy of this request is attached hereto as Exhibit A.

5. Techdisposal.com, Inc.'s specifically directed that the requested IRS' Collection files related to Techdisposal.com, Inc. would likely include, but not be limited to, the information detailed below.

a. The Collection File prepared and maintained by IRS Revenue Officer Mary Clinton of the Columbus, Ohio office. Ms. Clinton was assigned and began corresponding with Techdisposal.com, Inc.'s representatives sometime in 2000 and continued corresponding with Taxpayer through sometime in 2003.

b. The Collection File prepared and maintained by IRS Revenue Officer Paul Knopa of the Columbus, Ohio office. Mr. Knopa was assigned and began corresponding with Techdisposal.com, Inc.'s representatives in 2003 regarding the outstanding employment tax liabilities.

c. The Collection File prepared and maintained by IRS Revenue Officer Margaret Peggy Nypaver of the Columbus, Ohio office. Ms. Nypaver was assigned to and began corresponding with Techdisposal.com, Inc.'s representatives sometime in 2004 or 2005.

d. The Collection File prepared and maintained by IRS Revenue Officer Michael Dutcher of the Columbus, Ohio office. Mr. Dutcher was assigned to and began corresponding with Techdisposal.com, Inc.'s representatives sometime in 2007.

6. On May 20, 2009, Plaintiff Sepehr Rajaie also filed a FOIA request with the Internal Revenue Service. Specifically, Mr. Rajaie requested a complete copy of the Internal

Revenue Service's records relating to any communications made between himself and/or his representative and the IRS Collection Division related to the IRS's investigation of and any proposed and/or assessed trust fund recovery penalties for the periods and tax years beginning in 2000 through 2006. A copy of Mr. Rajaie's FOIA request is appended hereto as Exhibit B.

7. In addition to requesting a complete copy of the Internal Revenue Service's records related to any oral or written communications between himself and the IRS Collection Division, Mr. Rajaie also specifically directed that the requested copy of the IRS' Collection files would likely include, but not be limited to, the information detailed below.

a. The Collection File prepared and maintained by IRS Revenue Officer Mary Clinton of the Columbus, Ohio office. Ms. Clinton was assigned and began corresponding with Mr. Rajaie sometime in 2000 and continued corresponding with Mr. Rajaie through sometime in 2003.

b. The Collection File prepared and maintained by IRS Revenue Officer Paul Knopa of the Columbus, Ohio office. Mr. Knopa was assigned and began corresponding with Mr. Rajaie in 2003 regarding the outstanding employment tax liabilities.

c. The Collection File prepared and maintained by IRS Revenue Officer Margaret Peggy Nypaver of the Columbus, Ohio office. Ms. Nypaver was assigned to and began corresponding with Mr. Rajaie sometime in 2004 or 2005.

d. The Collection File prepared and maintained by IRS Revenue Officer Michael Dutcher of the Columbus, Ohio office. Mr. Dutcher was assigned to and began corresponding with Mr. Rajaie sometime in 2007.

8. The separate FOIA requests submitted by the Taxpayers were similar in many respects based upon the fact that each requested the same and/or similar documentation and records from the Internal Revenue Service.

9. The Internal Revenue Service received both of these requests on May 22, 2009.

10. On June 18, 2009, Disclosure Officer Denise Hensley, on behalf of Disclosure Manager Darlene Stewart, of Internal Revenue Service Disclosure Office #5, issued two separate letters in response to Techdisposal.com, Inc.'s and Mr. Rajaie's FOIA requests. These letter requested that the IRS have until August 4, 2009 to respond to the FOIA requests. Copies of these letters are appended hereto as Exhibits C & D respectively.

11. On September 4, 2009, after receiving partial payment of the related copying charges, the IRS partially denied the FOIA requests of Techdisposal.com, Inc. and Sepehr Rajaie. Specifically, Disclosure Manager Darlene Stewart of the Internal Revenue Service Disclosure Office 5 in Covington, Kentucky issued one letter addressing both Techdisposal.com, Inc. and Mr. Rajaie's FOIA requests. A copy of this response is attached hereto as Exhibit E.

12. The September 4, 2009 letter jointly addressed the FOIA requests of Techdisposal.com, Inc. and Mr. Rajaie. The letter did not distinguish between the two FOIA requests or the documents responsive to the separate requests. Rather, the letter indicated that there were 2,734 pages responsive to both FOIA requests. However, the Disclosure Manager remitted only 2,232 pages, finding that the remaining 502 pages in full and 64 pages in part were exempt from disclosure based upon the exemptions found in 5 U.S.C. §552(b)(3) and (b)(7)(A) and (b)(7)(C) and I.R.C. §6103 and 31 U.S.C. §5319.

13. Specifically, the IRS did not make full disclosure of the requested documents based upon the assertion that full disclosure could reasonably be expected to interfere with law

enforcement proceedings and could reasonably be expected to constitute an unwarranted invasion of personal privacy. Additionally, the IRS based its partial denial on the exceptions found in I.R.C. §6103, which provides that the IRS shall not disclose confidential returns and return information.

14. On September 11, 2009, Techdisposal.com, Inc. and Mr. Sepp Rajaie appealed the IRS's decision to deny the FOIA requests. Copies of the two appeals are appended hereto as Exhibits F & G. Techdisposal.com, Inc. and Mr. Rajaie appealed the IRS' determination based upon the following grounds:

a. Terrence A. Grady & Associates, the FOIA requester, is a designated representative and, as such, is entitled under Internal Revenue Code ("I.R.C.") §6103(c) to receive this requested information;

b. Documentation of the dates and substance of discussions between the Taxpayers and the Collections Division were initiated by the Taxpayers. These communications occurred during the normal course of IRS collections and not during a civil or criminal tax investigation and therefore cannot reasonably be expected to interfere with the enforcement proceedings;

c. The requested information could not reasonably be expected to constitute an unwarranted invasion of personal privacy as all information requested pertains solely to the Taxpayers and the Taxpayers' representatives and was requested by the Taxpayers' designees.

15. As of October 15, 2009, the IRS Office of Appeals did not respond to either of these Appeals. Accordingly, pursuant to 5 U.S.C. §552(a)(6)(A)(ii) §552(a)(6)(C)(i) due to the passage of the statutorily proscribed twenty (20) business days the Taxpayers have exhausted the administrative remedies and now file this Complaint to compel the production of documents.

III. TECHDISPOSAL.COM, INC'S FIRST CAUSE OF ACTION VIOLATION OF THE FREEDOM OF INFORMATION ACT FOR FAILURE TO GRANT REQUEST FOR PUBLIC INFORMATION

16. The Plaintiff, Techdisposal.com, Inc. incorporates as if fully rewritten within the allegations set forth in paragraphs 1 through 15.

17. Defendant's failure to grant the Plaintiff Techdisposal.com, Inc.'s request for information contained within the IRS's files violates 5 U.S.C. §552(a)(3)(A).

IV. SEPEHR RAJAIE'S FIRST CAUSE OF ACTION VIOLATION OF THE FREEDOM OF INFORMATION ACT FOR FAILURE TO GRANT REQUEST FOR PUBLIC INFORMATION

18. The Plaintiff, Sepehr Rajaie incorporates as if fully rewritten within the allegations set forth in paragraphs 1 through 17.

19. Defendant's failure to grant the Plaintiff Sepehr Rajaie's request for information contained within the IRS's files violates 5 U.S.C. §552(a)(3)(A).

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WHEREFORE, the Plaintiffs pray that this Court:

- A. Order Defendant to immediately process the requested records in their entirety;
- B. Order Defendant, upon completion of such expedited processing, to disclose the requested records in their entireties and make copies available to the Plaintiffs;
- C. Award Plaintiffs the costs and reasonable attorney's fees incurred in this action pursuant to §552(a)(4)(E); and
- D. Grant other such relief as the Court may deem just and proper.

Respectfully submitted,

TERRENCE A. GRADY & ASSOCIATES CO., L.P.A.

Date: October 27, 2009



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